

Message Text

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INFO OCT-01 EA-06 IO-10 ISO-00 AID-05 CEA-01 CIAE-00

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E.O. 11652: N/A

TAGS: OECD, ETRD

SUBJECT: FEB. 3-4 TCWP MEETING ON EXPORT CONTROLS

1. SUMMARY: IN FIRST MEETING UNDER NEW TC MANDATE, WORKING PARTY AGREED TO IMPROVE DATA AND ANALYSIS OF EXPORT CONTROL ACTIONS TAKEN BY MEMBERS AND THIRD COUNTRIES, AND TO COLLECT INFORMATION ON EXPORT CONTROL LEGISLATION IN MEMBER STATES. SECRETARIAT WILL CIRCULATE NEW REQUEST FOR DATA IN NEAR FUTURE. DISCUSSION OF SECRETARIAT'S POLICY OPTIONS PAPER REVEALED CONTINUING DIVERGENCES OF VIEW BETWEEN AUSTRALIANS AND CANADIANS, WHO MAINTAIN WORK ON OPTIONS IS PREMATURE AND UNBALANCED, AND REST OF GROUP, GENERALLY WILLING TO EXCHANGE VIEWS IN CONSTRUCTIVE MANNER. THERE APPEARED

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TO BE SOME CONSENSUS AMONG LATTER DELS THAT IMPROVED

COOPERATION IN AREA OF EXPORT CONTROLS SHOULD BE APPROACHED IN PRAGMATIC MANNER, ALTHOUGH SOME UNDERLYING AGREEMENT ON RULES AND CRITERIA WOULD INEVITABLY BE NECESSARY, AND THAT IDEAS OF NOTIFICATION AND CONSULTATION, INCLUDING POSSIBILITY OF EX ANTE CONSULTATION AND COOPERATION TO AVOID NECESSITY OF EXPORT CONTROL ACTIONS, WERE WORTH MORE DETAILED EXAMINATION. WORKING PARTY AGREED IN ANY CASE THAT ITS WORK WAS STILL IN PRELIMINARY STAGE AND FURTHER WORK WOULD BE NEEDED TO FULFILL TC MANDATE. END SUMMARY.

2. FACTUAL ANALYSIS: WORKING PARTY AGREED THAT MORE INFORMATION WOULD BE NEEDED TO CARRY OUT TC MANDATE CALLING FOR DEEPENING AND WIDENING ANALYSIS OF EXPORT CONTROL PROBLEMS, AND ASKED SECRETARIAT TO CIRCULATE NEW QUESTIONNAIRE TO ELICIT MORE DETAILED INFORMATION ON MOTIVES AND EFFECTS OF EXPORT CONTROL ACTIONS. SECRETARIAT WILL ALSO REPEAT EARLIER INVITATION FOR MEMBERS TO SUPPLY INFORMATION ON MEASURES TAKEN BY THIRD COUNTRIES, WHICH MAY BE TRANSMITTED INFORMALLY TO SECRETARIAT AND WILL BE USED PRUDENTLY (I.E. A FORMAL INVENTORY WILL NOT BE ESTABLISHED) IN VIEW OF CONCERN EXPRESSED BY MANY DELS THAT "NOTIFICATION" OF THIRD COUNTRY MEASURES MIGHT BE TAKEN ADVERSELY BY COUNTRIES INVOLVED. IN RESPONSE TO DUTCH SUGGESTION, SUPPORTED BY NUMBER OF DELS, SECRETARIAT WILL ALSO PREPARE, ON BASIS OF SUBMISSIONS BY WP MEMBERS, SUMMARY OF EXPORT CONTROL LEGISLATION OF MEMBER GOVERNMENTS FOR USE IN FUTURE DISCUSSIONS OF MOTIVATION BEHIND SUCH MEASURES.

3. EXAMINATION OF POLICY OPTIONS. ALMOST ALL DELS CONSIDERED SECRETARIAT PAPER (TFD/TD/827) A USEFUL BASIS FOR DISCUSSIONS IN WORKING PARTY AND A GOOD FIRST TRY AT ANALYZING DIFFICULT PROBLEM. AUSTRALIANS (HALL) HOWEVER THOUGHT PAPER SHOWED ALL THE PITFALLS OF MOVING AHEAD TOO QUICKLY ON EXPORT CONTROL PROBLEM AND URGED WP TO CONCENTRATE ON FURTHER FACTUAL ANALYSIS. CANADIANS (ELLIOT) PREDICTABLY CRITICIZED PAPER FOR "LACK OF BALANCE" AND FAILURE TO GIVE QUESTION OF IMPORT RESTRICTIONS EQUAL EMPHASIS. BOTH THEY AND AUSTRALIANS LIMITED OFFICIAL USE

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CAME BACK TO THIS IDEA THROUGHOUT DISCUSSION, REMINDING GROUP THAT EXPORTERS COULD NOT BE EXPECTED TO ASSUME ADDITIONAL OBLIGATIONS BEYOND PRESENT GATT RULES EXCEPT IN CONTEXT OF SPECIFIC NEGOTIATIONS WHERE IMPORT SIDE WOULD BE INCLUDED. MAJORITY OF GROUP HOWEVER ADOPTED NETHERLANDS AND SWISS VIEW THAT PROBLEM OF IMPORT RESTRICTIONS WAS BEING HANDLED ELSEWHERE AND THAT OBJECT OF PRESENT DISCUSSIONS WAS TO SHED LIGHT ON RELATIVELY

UNSTUDIED SUBJECT RATHER THAN REPEAT WELL-TRODDEN PATH
OF ARGUMENTATION OVER ACCESS TO MARKETS. US DEL SUG-
GESTED IDEAS CONTAINED IN PAPER BE CONSIDERED ON MERITS
APART FROM QUESTION OF COSTS AND BENEFITS FOR ANY
INDIVIDUAL COUNTRY, SINCE DEBATE OVER LATTER WOULD BE
UNPRODUCTIVE AND UNRESOLVABLE, ALTHOUGH IT WAS OBVIOUSLY
IMPORTANT QUESTION WHICH WOULD HAVE TO BE FACED IF
IMPROVED DISCIPLINE WERE TO BE ADOPTED.

4. IN DISCUSSION OF SECTION OF SECRETARIAT PAPER
DEVOTED TO RULES, NUMBER OF DELS THOUGHT SECRETARIAT HAD
OVEREMPHASIZED DISTINCTION BETWEEN RULES AND PROCEDURE

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OR BETWEEN LEGALISTIC AND PRAGMATIC APPROACHES TO CO-OPERATION, AND SUGGESTED COMPLEMENTARY NATURE OF THESE TWO ASPECTS BE MADE MORE CLEAR. MANY DELS ALSO HAD PROBLEM WITH DISTINCTION BETWEEN SHORT TERM AND STRUCTURAL MOTIVATIONS PROPOSED IN PAPER, AND BELIEVED MORE PRAGMATIC ASSESSMENT OF PARTICULAR ACTIONS WAS NECESSARY. CANADIANS STRONGLY OBJECTED TO IDEA THAT STRUCTURALLY MOTIVATED RESTRICTIONS WERE BASICALLY UNJUSTIFIED, SAYING THEY COULD BE JUSTIFIED TO OFFSET IMPORT DUTIES IMPOSED BY CONSUMING COUNTRIES ON PROCESSED PRODUCTS. EC COMMISSION DEL (HOULISTON) SAID SUCH ACTION WOULD UPSET WHOLE SYSTEM OF TARIFF CONCESSIONS NEGOTIATED OVER PAST DECADES, SINCE THEY WERE LIMITED OFFICIAL USE

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BASED ON ASSUMPTION OF NO EXPORT RESTRICTIONS. US DEL, NOTING THAT US AUTHORITIES HAD NOT HAD TIME TO READ PAPER AND THAT COMMENTS HAD TO BE TENTATIVE, SAID HE TENDED TO AGREE WITH IDEA OF COMING DOWN HARD ON STRUCTURAL MEASURES, WHICH SERVED A BASICALLY PROTECTIVE PURPOSE, BUT THOUGHT IT PROBABLY UNWORKABLE, SINCE THERE WOULD BE LARGE DIVERGENCE OF VIEW AMONG COUNTRIES AS TO WHETHER SUCH MEASURES WERE JUSTIFIED IN A PARTICULAR CASE. HE SUGGESTED SECRETARIAT EXAMINE IN POSSIBLE FUTURE PAPER WHETHER SOME KINDS OF RESTRICTIONS WERE MORE PROPERLY SUBJECT OF SPECIFIC NEGOTIATIONS AND EXCHANGE OF CONCESSIONS THAN OTHERS WHICH MIGHT BE HANDLED ON BASIS OF GENERAL RULES.

5. SEVERAL DELS CRITICIZED PROCEDURES SECTION OF SECRETARIAT PAPER AS BEING OVERLEGALSTIC IN APPROACH, BUT WP REACHED VIRTUAL CONSENSUS (EXCEPT FOR CANADA AND AUSTRALIA) THAT CONCEPTS OF NOTIFICATION AND CONSULTATION SHOULD BE EXPLORED IN MORE DETAIL. MANY DELS URGED THAT SECRETARIAT'S IDEA OF "COMPLAINT" PROCEDURE BE REPLACED BY SIMPLE BROAD RIGHT OF CONSULTATION BY AFFECTED PARTIES. THERE WAS CONSIDERABLE DEBATE ABOUT SCOPE OF MEASURES WHICH COUNTRIES SHOULD HAVE TO NOTIFY, WITH FRENCH DEL (GUYOT) POINTING UP DIFFICULTY OF DISTINGUISHING PURELY INTERNAL POLICIES FROM THOSE DESIGNED TO AFFECT EXPORTS. GROUPS GENERALLY AGREED RESPONSIBILITIES IN THIS AREA WOULD HAVE TO BE CLARIFIED. UK, SUPPORTED BY FRANCE AND BELGIUM, SUGGESTED THAT CONSULTATIONS WOULD REQUIRE FIRM LEGAL BASIS SUCH AS PROVIDED BY PRESENT GATT RULES OR PERHAPS NEW CODE OF CONDUCT IF THEY WERE TO BE EFFECTIVE. US DEL SUGGESTED SECRETARIAT SHIFT FOCUS OF PAPER FROM EX POST TO EX ANTE COOPERATION, OBJECT OF WHICH WOULD BE TO AVOID NECESSITY FOR CONTROLS AND NOTIFICATIONS, ESPECIALLY FOR SHORT

TERM ACTIONS. HE SUGGESTED ELEMENTS OF EARLY WARNING
SYSTEM COULD INCLUDE CONSULTATIONS TRIGGERED BY MARKET
DEVELOPMENTS, EXCHANGE OF INFORMATION, EXAMINATION OF
POLICY OPTIONS OPEN TO GOVERNMENTS, AND POSSIBLE
COOPERATIVE ACTIONS TO AVOID NECESSITY OF CONTROLS,
BASED ON CONCEPT OF EQUITABLE SHARING OF BURDEN OF
ADJUSTMENT TO UNUSUAL INTERNATIONAL SITUATIONS. SEVERAL
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DELS SUPPORTED GENERAL IDEA THAT EX ANTE CONSULTATIONS
AND COOPERATION TO AVOID EXPORT CONTROLS WERE DESIRABLE.
IN DISCUSSION OF SANCTIONS, MOST DELS THOUGHT PAPER
WENT A BIT FAR BUT AGREED SOME PROVISION FOR SANCTIONS
NECESSARY IF SYSTEM OF DISCIPLINE TO WORK. FRANCE AND
SEVERAL OTHER DELS NOTED DESIRABILITY OF NOT TREATING
NON SIGNATORIES TO ANY CODE AS FAVORABLY AS SIGNATORIES.

6. REPORT TO TRADE COMMITTEE: IN ADDITION TO REPORTING

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NEW PROGRAM OF DATA COLLECTION, WP AGREED TO BRING
TFD/TD/827 TO ATTENTION OF TC, ALONG WITH NEW NOTE TO
BE PREPARED BY SECRETARIAT REFLECTING VIEWS EXPRESSED
BY DELS ON SUBJECT OF POLICY OPTIONS DURING FEB. 3-4
MEETING. ORAL REPORT BY CHAIRMAN WILL INDICATE TENOR
OF DISCUSSIONS AND POINT OUT KEY ISSUES, NOTING THAT WP
STILL CONSIDERS WORK ON THIS SUBJECT AT PRELIMINARY AND
TENTATIVE STAGE AND THAT IT EXPECTS TO CONTINUE WORK
UNDER CURRENT MANDATE.

7. ELECTIONS: TCWP AGREED TO RETAIN ROGERS (US) AS
1975 CHAIRMAN, REELECTED GUYOT (FRANCE) AS FIRST VICE
CHAIRMAN, AND ELECTED HALL (AUSTRALIA) AS SECOND VICE
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CHAIRMAN (REPLACING KITAMURA OF JAPAN).

8. COMMENT: ALTHOUGH WP SPENT MORE TIME ON SUBJECT OF
ADDITIONAL DATA COLLECTION THAN WAS REALLY NECESSARY,
THIS MADE AUSTRALIANS HAPPY AND ENABLED REST OF GROUP
TO HAVE WHAT WAS CLEARLY POSITIVE AND CONSTRUCTIVE
DISCUSSION (IF A PRELIMINARY ONE) ON SUBJECT OF POLICY
OPTIONS, IN WHICH CANADIANS WERE ONLY NEGATIVE VOICE.
HOPEFULLY DISCUSSION AT TC WILL CONFIRM GENERAL DESIRE
OF MOST WP MEMBERS TO CONTINUE WORK ON OPTIONS.
TURNER

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